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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 IVAN D. COTTON,

Case No. 2:18-cv-02209-KJD-VCF

10 Petitioner,

ORDER

11 v.

12 STATE OF NEVADA,

13 Respondents.

14 Petitioner has not properly commenced this action by either filing a complete application  
15 for leave to proceed *in forma pauperis* or paying the filing fee.

16 It does not appear that dismissal of this action without prejudice will materially impact  
17 analysis of the timeliness of a promptly filed new petition or otherwise cause petitioner substantial  
18 prejudice. To the extent petitioner intends to challenge his judgment of conviction in Eighth  
19 Judicial District Court case number 16-319763-1, (*see* ECF No. 1-1 at 2), that case is currently on  
20 appeal before the Nevada Supreme Court and thus is not yet final.<sup>1</sup> Further, to the extent petitioner  
21 seeks to file a notice of appeal with this court, federal district courts do not have appellate  
22 jurisdiction over a state supreme court or other state court, whether by direct appeal, mandamus,  
23 or otherwise. *See, e.g., Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *Bianchi v. Rylaarsdam*,  
24 334 F.3d 895, 898 (9th Cir. 2003).

25 In addition, the petition has not been filed on the appropriate form. Pursuant to Local Rule  
26 3-1, petitions for writ of habeas corpus pursuant to 28 U.S.C. § 2254 must be on the form provided

27 <sup>1</sup> See <http://caseinfo.nvsupremecourt.us/public/caseView.do?csIID=48467> (last accessed Nov. 19, 2018).

1 by the court. Petitioner is advised that any future petitions should be filed on the court's § 2254  
2 form.

3 Finally, petitioner also asserts unspecified violations of his rights. To the extent petitioner  
4 complains of a violation of his rights under 42 U.S.C. § 1983, such a complaint must be filed on  
5 the court's form for § 1983 actions and accompanied by either the filing fee or a complete  
6 application for leave to proceed *in forma pauperis*. See Local Rules 1-1, 1-2 & 2-1.

7 In accordance with the foregoing, IT IS THEREFORE ORDERED that this improperly  
8 commenced action is DISMISSED WITHOUT PREJUDICE.

9 IT IS FURTHER ORDERED that a certificate of appealability is DENIED. Jurists of  
10 reason would not find debatable whether the Court was correct in its dismissal of the action without  
11 prejudice, for the reasons discussed herein.

12 IT IS FURTHER ORDERED, pursuant to Rule 4 of the Rules Governing Section 2254  
13 Cases, that the Clerk shall make informal electronic service upon respondents by adding Nevada  
14 Attorney General Adam P. Laxalt as counsel for respondents and directing a notice of electronic  
15 filing of this order to his office. No response is required from respondents other than to respond  
16 to any orders of a reviewing court.

17 The Clerk of Court shall send petitioner a copy of his papers in this action, along with  
18 copies of the forms and instructions for an inmate pauper application, a habeas petition, and a §  
19 1983 complaint.

20 The Clerk of Court shall enter final judgment accordingly, dismissing this action without  
21 prejudice.

22 IT IS SO ORDERED.

23 DATED: November 19, 2018

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25 KENT J. DAWSON  
26 UNITED STATES DISTRICT JUDGE  
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